

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**NIGHT OF THE TEMPLAR, LLC,**

**Plaintiff,**

**v.**

**Case No. 2:13-cv-0183**

**Judge Gregory L. Frost**

**Magistrate Judge Deavers**

**DOES 1-6,**

**Defendants.**

**ORDER**

This matter is before the Court for consideration of the Magistrate Judge's Report and Recommendation filed on August 20, 2013. (ECF No. 7.) In that filing, the Magistrate Judge recommended that the Court dismiss this action without prejudice pursuant to Fed. R Civ. P. 4(m) for failure to timely effect service of process on the Doe Defendants in this action.<sup>1</sup>

The Report and Recommendation advised Plaintiff that the failure to object within fourteen days would result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. (ECF No. 7, at Page ID # 62.) The Court has reviewed the Report and Recommendation. Noting that no objections have been filed, that the time for filing such objections has expired, and that the Magistrate Judge's reasoning is correct, the Court **ADOPTS** the Report and Recommendation (ECF No. 7) and

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<sup>1</sup> Plaintiff filed a Notice of Voluntary Dismissal With Prejudice as to Doe 2. (ECF No. 6.) The Court notes that said Notice was inoperative, as a notice of dismissal under Fed. R. Civ. P. 41(a) is not the correct procedural vehicle by which to dismiss anything less than the entire action. *See Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 265-66 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008); *see also Coleman v. Ohio State Univ. Med. Ctr.*, No. 2:11-cv-49, 2011 U.S. Dist. LEXIS 83813, at \*6 (S.D. Ohio Aug. 1, 2011); *Terry v. City of Columbus*, No. 2:06-cv-720, 2008 U.S. Dist. LEXIS 52519, at \*10 n.1 (S.D. Ohio July 1, 2008); *Rivers v. Bowers*, No. 2:06-cv-712, 2008 U.S. Dist. LEXIS 39558, at \*26 (S.D. Ohio May 15, 2008).

**DISMISSES WITHOUT PREJUDICE** this action pursuant to Federal Rule of Civil Procedure 4(m).

**IT IS SO ORDERED.**

/s/ Gregory L. Frost  
**GREGORY L. FROST**  
**UNITED STATES DISTRICT JUDGE**